



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Memorandum

To: Committee on Administration and Management
From: Funmi Olorunnipa (Staff Counsel)
Date: September 23, 2013
Re: Draft Recommendation for GPRAMA Project

[The following draft recommendation is based on the GPRA Modernization Act of 2010: Examining Constraints To, and Providing Tools For, Cross-Agency Collaboration Project and related draft report and recommendations by Professor Jane Fountain of the University of Massachusetts Amherst. This draft is intended to facilitate the Committee's discussion at its September 26, 2013 public meeting and not to preempt the Committee's discussion and consideration of the proposed recommendations. In keeping with Conference practice, a draft preamble has also been included. The aim of the preamble is to explain the problem or issue the recommendation is designed to address, and the Committee should feel free to revise it as appropriate.]

[DRAFT] PREAMBLE

The GPRA Modernization Act of 2010 (GPRAMA) became law on January 4, 2011.¹ Among other things, the Act requires the Executive branch and federal agencies to develop cross-agency performance goals and specifies directives toward the advancement, use, review and measurement of cross-agency collaboration.² Cross-agency collaboration is widely viewed as a powerful means for government reform and performance improvement. Under GPRAMA, greater coordination across agencies offers the potential for the federal government to address complex policy challenges that lie inherently across agency boundaries and jurisdictions. In sum, cross-agency collaboration—when used thoughtfully for well-selected initiatives— holds great promise as a means of improving government performance, efficiency, and accountability.

¹ Pub. L. No. 111-352, 124 Stat. 3866 (2011) (codified as amended in scattered sections of 5 and 31 U.S.C.). The GPRA Modernization Act of 2010 amends the GPRA Act of 1993, Pub. L. No. 103-62, 107 Stat. 285 (1993).

² See, e.g., 5 U.S.C. § 306; 31 U.S.C. §§ 1115 – 16, 1120 – 25 (setting forth the requirements under GPRAMA).



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GPRAMA specifically requires the Office of Management and Budget (OMB) to develop long-term, outcome-oriented goals for a limited number of cross-cutting management improvement areas (known as Cross-Agency Priority (CAP) Goals), including: financial management; human capital management; information technology management; procurement and acquisition management; and real property management. These goals are to be developed in coordination with agencies and in consultation with the Congress. The law also requires an agency to describe how it is working with other relevant agencies and organizations to achieve individual Agency Performance Goals (APGs). GPRAMA also requires the development of a federal government-wide performance plan and individual agency performance plans; quarterly progress reviews of agency goals and the use of performance information to evaluate federal government and agency progress toward their stated priority goals; and enhanced transparency through the effective operation of Performance.gov, a single website about the federal government priority goals, performance plans, quarterly review results and individual agency performance. Within OMB, the Office of Performance and Personnel Management (OPPM) leads the effort to drive mission-focused performance gains across the federal government.

As designated agency officials work to implement GPRAMA, they may face certain institutional constraints to effective collaboration and thus need tools to aid them in their efforts.³ Some agencies and federal officials have developed strategies to address the legal and other institutional challenges posed by such collaborative efforts. For others, the kinds of cross-agency collaboration demanded by GPRAMA have proven frustrating and difficult to overcome. While a large body of research addresses interagency coordination or cross-agency collaboration generally,⁴ little attention has been given to exploring the legal barriers and other constraints to implementation of GPRAMA—whether real or perceived—and providing tools that agency officials may use to address such constraints.

³ See, e.g., JANE FOUNTAIN, IBM CENTER FOR THE BUSINESS OF GOVERNMENT, IMPLEMENTING CROSS AGENCY COLLABORATION: A GUIDE FOR FEDERAL MANAGERS (2013), available at <http://www.businessofgovernment.org/sites/default/files/Implementing%20Cross%20Agency%20Collaboration.pdf> (setting forth institutional constraints to cross-agency collaboration and recommending additional guidance from OMB).

⁴ See, e.g., U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-12-1022, MANAGING FOR RESULTS: KEY CONSIDERATIONS FOR IMPLEMENTING INTERAGENCY COLLABORATION MECHANISMS (2012), available at <http://www.gao.gov/assets/650/648934.pdf> (setting forth a number of constraints to cross-agency collaboration).



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Accordingly, the Conference commissioned the study underlying this recommendation to provide attention to the key challenges to cross-agency collaboration under GPRAMA, as well as suggesting tools for federal officials to implement the Act's collaboration and other mandates.⁵ This study examines the use of tools by officials at OMB and OPPM, senior agency officials, legal counsel, managers and others to overcome and work within institutional challenges to cross-agency collaboration.

Consistent with the Administrative Conference's statutory mandate of increasing government efficiency and enhancing transparency, the Conference issues this recommendation which suggests practices to better facilitate cross-agency collaboration under GPRAMA and to encourage wider use of tools which may advance such collaboration between federal agencies.

The Recommendation covers practices and tools to better facilitate cross-agency collaboration that must be multi-faceted, must address institutional challenges on a number of fronts and must be directed to a number of actors, including OMB, OPPM and related offices, as well as agency legal counsel and other agency officials leading cross-agency collaboration efforts.

One key challenge faced by agencies and the public is access to information regarding agency planning required by GPRAMA. A recommended practice to address this challenge should be aimed at increasing transparency on Performance.gov. Another challenge agency officials face when attempting to determine which tools to use for cross-agency collaboration efforts made pursuant to CAP goals under GPRAMA is distinguishing between mission-support CAP goals (which are designed to achieve consolidation of standard business functions and systems across agencies) and mission-oriented CAP goals (which are designed to coordinate authorities to pursue shared policy goals that cross-cut agencies). A recommended practice to address this challenge should provide clarification to allow agency officials to distinguish between the two types of goals so they can determine which tools to use. Another challenge is

⁵ See JANE FOUNTAIN, THE GPRA MODERNIZATION ACT OF 2010: EXAMINING CONSTRAINTS TO, AND PROVIDING TOOLS FOR, CROSS-AGENCY COLLABORATION (SEPTEMBER 17, 2012) (draft report to the Administrative Conference of the U.S.), available at http://www.acus.gov/sites/default/files/documents/Preliminary%20Draft%20GPRAMA%20Report_Fountain_9_2013.pdf.



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the varied and incomplete agency response to the GPRAMA requirement that in setting APGs, agencies include a description of the agencies, programs, activities and other organizations that are related to a particular agency goal. A recommended practice to address this challenge should focus on providing clear guidance to agencies reiterating their responsibilities under GPRAMA in this regard.

Yet another challenge to cross-agency initiatives is the barrier to sharing resources and legal authority caused by the jurisdictional boundaries of various congressional committees. Accordingly, a recommended practice to address this challenge should focus on successfully navigating congressional concerns about cross-agency collaboration efforts. It should also focus on encouraging agency officials (particularly agency lawyers) to proactively engage Congress in discussions about cross-agency collaboration efforts where appropriate.

Agency general counsels and other agency lawyers play a critical role in helping foster cross-agency collaboration. Accordingly, recommended practices that promote the dissemination of information helpful to cross-agency collaboration efforts among agency lawyers are needed to address challenges presented by the lack of information sharing. Similarly, lawyers should play a role in facilitating the sharing of information and data among agencies where possible. Practices focused on encouraging agency lawyers to foster expertise and experience in building and sustaining cross-agency collaboration are also recommended. In addition, other agency officials who lead cross-agency collaboration efforts face a host of challenges as they try to move initiatives forward. A number of recommended best practices are directed at these officials to ensure that collaborative efforts are maximized and the goals for such initiatives are reached.

[DRAFT] RECOMMENDATION

1. *Increasing Transparency.* To increase transparency, the Office of Performance and Personnel Management (OPPM), working with the Chief Performance Officer of the United States, should consider making all quarterly status update reports, including those that show progress on cross-agency priority (CAP) goals, publicly available and searchable on the Performance.gov website.



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2. *Improving Agency Reporting Under GPRAMA.* OPPM should provide written guidance to clarify GPRAMA's requirement that agencies identify all organizations (including other agencies, programs or activities) that contribute to the achievement of an agency priority goal (APG). OPPM should periodically verify that agencies are properly reporting their involvement with other agencies that have made contributions to progress on their priority goals, including situations in which two agencies coordinate on their respective APGs or a particular APG is related to a CAP goal.

3. *Enhancing Consultation with Congress.* Officials at the Office of Management and Budget (OMB), OPPM and at agencies should continue to engage with members of Congress and their staffs to inform them of institutional directives that would support cross-agency collaboration. Where appropriate, agency legal counsel who can identify and address potential legal barriers to cross-agency collaboration should aid agency efforts to inform members of Congress and their staffs about such legal barriers.

4. *Improving Information Sharing.* To improve the sharing and harmonization of data and information systems or subsystems, the OMB Office of E-Government and Information Technology should identify shared systems and cyber infrastructure within agencies that could be utilized, with modifications, to further cross-agency streamlining and collaboration. Whenever feasible, agency legal counsel charged with interpreting statutory language related to data should also strive to facilitate the sharing of information and data among agencies.

5. *Facilitating Better Use of Cross-Agency Collaboration Tools.* To help agency officials better utilize the tools available for cross-agency collaboration, OPPM, and related offices such as the Performance Improvement Council (PIC), should provide written guidance:

- (a) clarifying the distinction between mission-oriented and mission-supported CAP goals so that agency officials can properly identify the relevant tools to use; and
- (b) encouraging agency legal counsel to share interagency agreements, memoranda of understanding, forms, documents and other information containing specific language used to facilitate cross-agency collaboration efforts whenever feasible.



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6. *Enhancing the Role of Agency Legal Counsel.* To improve cross-agency collaboration where feasible, agency legal counsel should:

(a) work with agency staff to develop interagency agreements, memoranda forms and other documents that would facilitate the process of sharing personally identifiable data and information between agencies; and

(b) aid agency officials who are leading cross-agency collaborative initiatives in determining the best way to share authority, information, operations, personnel and resources within the confines of relevant legal and statutory requirements.

7. *Enhancing the Role of Other Agency Officials.* Agency officials leading cross-agency initiatives should consider undertaking the following best practices to help facilitate effective cross-agency collaboration:

(a) Set and communicate clear, compelling directions and goals;

(b) Utilize a variety of collaborative techniques to achieve stated goals;

(c) Establish specific roles and responsibilities for agency staff;

(d) Develop clear decision-making processes including conflict resolution measures;

(f) Work with agency attorneys to ensure formal agreements for collaborative efforts are made;

(e) Work with agency attorneys to develop a plan or agreement for shared operations and shared resources that support achieving stated goals; and

(g) Build shared performance metrics to enable tracking, monitoring, and measurement/evaluation of output and outcomes across agencies and programs engaged in collaborative efforts.

8. *Improving Training for Agency Officials.* OPPM should work with the Office of Personnel Management (OPM) to continue to identify and refine training tools which build capacity for cross-agency collaboration among agency attorneys and other officials. OPPM and



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OPM should also proactively certify performance appraisal systems, including performance bonuses, to recognize and reward substantive contributions and leadership in cross-agency collaborative efforts by agency staff.